

Release  
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## **SUMMARY OF CASES ACCEPTED DURING THE WEEK OF MAY 24, 1999**

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#99-74 In re Marriage of Congdon S077916. (F029118; 70 Cal.App.4th 358.) Petition for review after the Court of Appeal affirmed an order in a marital dissolution proceeding. This case concerns whether a parent who has been awarded joint legal and physical custody of a minor child following a contested trial must show a change in circumstances, in addition to a change in the age of the children, in order to obtain modification of the visitation or time-share schedule between the parents.

#99-75 East Bay Asian Local Development Corp. v. State of California, S077396. (C024192; 69 Cal.App.4th 1033.) Petition for review after the Court of Appeal reversed the judgment in an action for declaratory relief. This case concerns whether the establishment clauses of the state or federal Constitutions or other provisions of the state Constitution are violated by statutes exempting religious organizations from historic preservation laws if the organization declares in a public forum that application of the laws to its non-commercial property

(over)

would cause a substantial hardship. (Gov. Code, §§25373, subds. (d), (e); 37361, subd. (c).

#99-76 Kajima/Ray Wilson v. Los Angeles County Metropolitan Transportation Authority, S077461. (B109867; 69 Cal.App.4th 1458.) Petition for review after the Court of Appeal affirmed an order in a civil action. This case concerns whether a public agency that wrongfully rejects the bid of the lowest responsible bidder for a public works project may be liable for lost profit and overhead or whether damages are limited to the cost of preparing and submitting the bid.

#99-77 Ketchum v. Moses, S077350. (A076353.) Unpublished opinion. Petition for review after the Court of Appeal affirmed an order in a civil case. The case concerns whether an award of attorney fees under the anti-SLAPP statute may include a multiplier for contingent risk. (Code Civ. Proc., §425.16, subd. (c).)

#99-78 People v. Luangrath, S077900. (C028959.) Unpublished opinion. Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents an issue, concerning whether a juvenile adjudication qualifies as a “strike” if it is for conduct which is defined as a serious felony but which is not listed under Welfare and Institutions Code section 707(b), which is related to an issue before the court in People v. Garcia, S059302. (See #98-79.)

#99-79 People v. Rizo, S077785. (B114174; 70 Cal.App.4th 229.) Petition for review after the Court of Appeal modified and affirmed judgments of conviction of a criminal offense. This case concerns whether a defendant may be convicted of violating Penal Code section 113 (sale of false citizenship documents), rather than an attempt to violate that provision, when the buyers of

the documents are undercover officers who are in fact citizens of the United States.

#99-80 Safeco Ins. Co. v. Robert S., S078199. (B115342; 70 cal.App.4th 757.) Petitions for review after the Court of Appeal reversed a summary judgment in a civil action. This case concerns whether an insurer has a duty to defend and indemnify its insured in a wrongful death action brought after a juvenile insured accidentally (but through gross negligence in the handling of a firearm) shot and killed a guest, when the insurance policy contains an exclusion for liability arising out of an “illegal act committed by” an insured and the juvenile has been convicted of involuntary manslaughter on the basis of the shooting.

## **STATUS**

#97-130 Kransco v. American Empire Surplus Lines Ins. Co., S062139. The court further limited the issues to be reviewed to whether an insurer may assert an affirmative defense of the insured’s comparative bad faith in a bad faith action brought against the insurer.

#98-150 Scheiding v. General Motors Corp., S073196. The court ordered briefing filed in this case which concerns whether the federal Locomotive Boiler Inspection Act preempts state law actions for asbestos-related injuries.

#99-57 People v. Tillman, S077360. The court ordered briefing filed in this case that includes the issue whether a Court of Appeal may decline to consider a claim the trial court failed to impose a mandatory fine when the People have not first sought correction in the trial court.

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